



California Fair Political Practices Commission

January 2, 1990

Jane K. Willet
The Don Willet Company
19401 De Vry Dr.
Irvine, CA 92715

RE: Your Request for Informal
Assistance
Our File No. I-89-659

Dear Ms. Willet:

You have requested advice concerning the campaign provisions of the Political Reform Act of 1974.¹ Your letter does not indicate that you are authorized to seek advice on behalf of a person who has duties under the Act. Accordingly, we consider your request to be one for informal assistance pursuant to Regulation 18329(c) (copy enclosed).²

QUESTIONS

1) May a candidate's 1992 reelection committee pay for current officeholder expenses?

2) How often will a general purpose recipient committee that does not make contributions to candidates file campaign statements in 1990? If the committee had a bank account out of which contributions were made to a candidate, would the number of reports required in 1990 be different?

3) Where must a general purposes recipient committee active in one county file its campaign statements?

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

CONCLUSIONS

1) Funds in a candidate's controlled committee, established to support that candidate's reelection may be used to pay for current officeholder expenses.

2) During 1990, a general purpose recipient committee which does not make contributions to or expenditures on behalf of candidates or measures must file two semi-annual statements for calendar year 1990 covering the reporting periods of January 1 - June 30, due July 31, and July 1 - December 31, due January 31, 1991. If the committee does make contributions or independent expenditures totaling \$500 or more during specified periods prior to the June 5 or November 6 statewide elections in 1990, up to four pre-election campaign statements must also be filed.

In addition, if the committee makes a contribution or contributions which total in the aggregate \$1,000 or more and are made to a candidate, a controlled committee or a committee primarily formed to support or oppose a candidate or a ballot measure and the contribution or contributions are made during the 16 days immediately preceding the election at which the recipient candidate or measure is being voted upon, the committee must file a late contribution report.

The committee may also be required to file a supplemental independent expenditure report (Form 465) if the committee makes independent expenditures of \$500 or more in a calendar year to support or oppose a single candidate, a single measure, or the qualification of a single measure. There is also a late independent expenditure report required if the Committee makes independent expenditures to support or oppose a single candidate or a single measure which total in the aggregate \$1,000 or more when the independent expenditures are made during the 16 days immediately preceding the election in which the candidate or measure supported or opposed is being voted upon.

Whether the committee has a separate bank account out of which contributions are made to candidates does not affect the number of filings required by the committee.

3) A general purpose recipient committee which limits its activities to a single county and which has indicated on its statement of organization (Form 410) that its activities primarily will be in one county, would not be required to file its regular campaign statements with Los Angeles and San Francisco counties, nor with the Secretary of State's office. The committee would be required to file its regular campaign statements with the county in which it is active, as well as its county of domicile.

Jane K. Willet
Page Three

ANALYSIS

Proposition 73 prohibited transfers between a candidate's controlled committees and provided that money raised to support a candidate's election to a specific office was held in trust for election to that office. (Sections 84305 and 85202(b).) However, a preliminary injunction by the United States District Court, Eastern District of California enjoined the Commission from enforcing the provision which prohibits candidates from transferring between their own controlled committees. (SEIU, AFL-CIO, CLC, et al. vs. FPPC, No. CIVS 89-0433 LKK-JFM, May 15, 1989.) In addition, Regulation 18525 (copy enclosed) allows an incumbent elected officer to use funds raised for reelection expenses to pay for current officeholder expenses.

Section 84200 requires general purpose recipient committees to file campaign statements

each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if they have made contributions or independent expenditures during the six-month period before the closing date of the statements.

In addition, Section 84200.5 requires that preelection statements be filed by county general purpose recipient committees during even-numbered years if they make contributions or independent expenditures totaling \$500 or more during the period covered by the preelection statements required for the statewide elections held in June and November. The 1990 filing schedule which will be used by county general purpose committees is enclosed.

As an example, if a county general purpose committee contributes \$500 on March 1, 1990, the committee must file a preelection statement covering the period January 1 - March 17, 1990, due no later than March 22, 1990. If the committee does not make contributions or independent expenditures totaling \$500 during the second preelection period, the committee would not need to file the preelection statement due May 24, but would file a semi-annual statement covering the period March 18 - June 30. This statement must be filed no later than July 31, 1990.

Section 84203 requires all committees to file a "late contribution report by mailgram, telegram, guaranteed overnight mail through the United States Postal Service, or personal delivery within 24 hours of the time the contribution is made in the case of the committee that makes the contribution." A late contribution is

...any contribution including a loan which totals in the aggregate \$1,000 or more that is made to or received by a candidate, a controlled committee, or a committee formed or existing primarily to support or oppose a candidate or measure before the date of the election at which the candidate or measure is to be voted on but after the closing date of the last campaign statement required to be filed before the election.

(Section 82036.)

A supplemental independent expenditure report is required by any committee which makes independent expenditures totaling \$500 or more in a calendar year to support or oppose a single candidate, a single measure or qualification of a measure. (Section 84203.5.) This report (Form 465) must be filed in addition to any other required campaign statements

...at the same time, covering the same periods, and in the places where the...committee would be required to file campaign statements if it were formed or existing primarily to support or oppose the candidate or measure or qualification of the measure.

(Section 84203.5.)

An independent expenditure is

...an expenditure made by any person (or committee) in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

(Section 82031.5.)

"Made at the behest" means a payment made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, or at the request or suggestion of a candidate, controlled committee, official committee of a political party, or organization formed or existing primarily for political purposes." (Regulation 18215(c).)

Jane K. Willet
Page Five

A committee which makes a "late independent expenditure" must ...report the late independent expenditure by mailgram, telegram, guaranteed overnight mail through the United States Postal Service or personal delivery within 24 hours of the time it is made.

(Section 84204.)

A "late independent expenditure" is

...any independent expenditure which totals in the aggregate \$1,000 or more and is made for or against any specific candidate or measure involved in an election before the date of the election but after the closing date of the last campaign statement required to be filed prior to the election by a candidate or committee participating in such election.

(Section 82036.5.)

Section 84215 specifies that county general purpose committees file the original and one copy of their campaign statements with the clerk of the county in which they are active, and two copies with their county of domicile, if different from the county in which they are active.

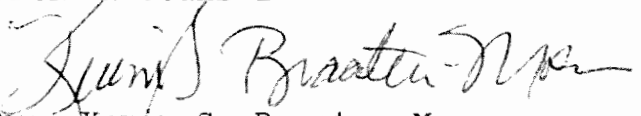
Section 82027.5(c) defines a county general purpose committee as "a committee to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county."

Enclosed is the 1989 "Information Manual on Campaign Disclosure Provisions of the Political Reform Act." The 1990 manual will be available in February.

If you have any additional questions, please contact me at (916) 322-5662.

Sincerely,

Kathryn E. Donovan
General Counsel


By: Kevin S. Braaten-Moen
Political Reform Consultant

Enclosures

THE DON WILLET COMPANY
PUBLIC AFFAIRS AND POLITICAL CONSULTATION

FPAC
Nov 16 10 02 AM '89

November 12, 1989

Technical Assistance
Fair Political Practice Commission
428 J Street, Suite 800
Sacramento, CA 95804-0807

Dear Technical Assistant:

Part 1:

Question: How does the law apply today? This is regarding a candidate committee(s).

Background:

Committee A was pre Prop 73. As of January 1, 1989 it had say \$100,000 in the bank. Consequently, Committee A is used as an officeholders expense committee with restricted funds. On June 30, 1989 this committee funds were cleansed (based on L.I.F.O.) and a new Committee 1992 was established. where the LIFO funds (\$80,000) were transferred and reported on Schedule G. of the new committee. The funds are in compliance of Prop 73.

Committee A (officeholder and restricted) is running out of funds.

Question(s): Can Committee B (1992) be use to pay officeholder expenses?

If your answer is "no", then can Committee B(1992) refund (or transfer back) to Committee A some and/or all of LIFO funds that originally were part of Committee A? If your answer is "no" to this question, please explain why and where do I go from here for officeholder expenses. The candidate will be running for the same office in June 1992 with Committee B.

Part 2

Currently the Orange County Republican Central Committee has only an administrative account (no candidate account). The main function of this committee is voter registration and GOTV within the County.

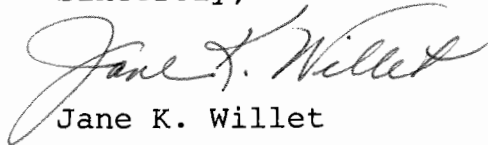
Question: How often will this type of General Purpose Committee (administrative only) be required to file reports in 1990?

If this committee did have a candidate account, would the report filings be any different?

Question: Where must the reports be filed? In the past we've sent them to Secretary of State, L.A. County, Orange County and San Francisco County? I guess my real question is if L.A and San Francisco really necessary?

Thank you for your help on the above questions. Please mail your response to Jane Willet, 19401 De Vry, Irvine, CA 92715.

Sincerely,



Jane K. Willet



California Fair Political Practices Commission

November 17, 1989

Jane K. Willet
The Don Willet Company
19401 Devry Drive
Irvine, CA 92715

Re: Letter No. 89-659

Dear Ms. Willet:

Your letter requesting advice under the Political Reform Act was received on November 16, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Jeanne Pritchard by slh
Jeanne Pritchard
Chief Technical Assistance
and Analysis Division

JP:plh